

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

July 19, 2005

IN RE:

**PETITION OF INTEGRATED RESOURCE
MANAGEMENT UTILITY, INC. TO EXPAND
ITS SERVICES AREA TO INCLUDE A PORTION
OF BLOUNT COUNTY, TENNESSEE KNOWN AS
LASHBROOKE SUBDIVISION**

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**DOCKET NO.
04-00268**

**ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

This matter came before Chairman Pat Miller, Director Deborah Taylor Tate and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this Docket, at a Hearing held on January 31, 2005, to consider the *Petition of IRM Utility, Inc. to Amend its Certificate of Convenience and Necessity* (the "*Petition*") requesting that the Authority amend its service area to include a portion of Blount County known as the Lashbrooke Subdivision.

Legal Standard for Granting Certificate of Public Convenience and Necessity

No public utility is permitted to begin construction or operation of a new utility facility or service before obtaining approval of the Tennessee Regulatory Authority. The procedure for obtaining a certificate of public convenience and necessity ("CCN") evidencing such approval is set forth in Tenn. Code Ann. §65-4-201(a), which states as follows:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application

and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate...”

Background

On August 07, 2003, Integrated Resource Management Utility, Inc. (“IRM”) filed an application for a CCN in Docket No. 03-00467. On November 10, 2003, the Authority approved IRM’s application and granted IRM a CCN to provide sewer service to two (2) customers in Sevier County, Tennessee.¹

IRM filed the *Petition* on August 25, 2004, to expand its service area to include a portion of Blount County, Tennessee, known as Lashbrooke Subdivision. At a regularly scheduled Authority Conference on September 13, 2004, the voting panel assigned to this Docket voted unanimously to appoint the Authority’s General Counsel or his designee to act as the Hearing Officer in this Docket to hear preliminary matters prior to the Hearing and to set a procedural schedule to completion.² The Hearing Officer issued a *Notice of Hearing* on September 30, 2004 announcing that the voting panel assigned to this Docket would conduct the Hearing on the merits of the *Petition* on October 11, 2004.

However, on October 05, 2004, Tennessee Wastewater Systems (“TWS”) filed a *Petition to Intervene and Motion to Consolidate* (“*Petition to Intervene*”) because TWS also had filed a petition to provide wastewater services to the Lashbrooke Subdivision in Docket No. 04-00334. Subsequently, TWS withdrew its *Petition to Intervene* on November 17, 2004, and on November

¹ See *In re Application of Integrated Resource Management Utility, Inc. for a Certificate of Public Convenience and Necessity to Provide Wastewater Systems*, Docket No. 03-00467, *Order Approving Application for a Certificate of Public Convenience and necessity, tariff and Special Contract* (March 16, 2004).

² *Order Appointing a Hearing Officer* (September 23, 2004)

24, 2004, the Authority issued an Order granting the Motion to Consolidate Docket Number 04-00334 into this Docket. On January 21, 2005, the final *Notice of Hearing* for this consolidated Docket was issued for January 31, 2005, noticing the Hearing on the merits of the *Petition*.

The *Petition*

The *Petition* requests an expansion of IRM's authorized service area to include a portion of Blount County, Tennessee, known as the Lashbrooke Subdivision. A map showing the areas to which IRM proposed to extend its service is attached to the *Petition*. IRM filed a rate schedule with the *Petition* stating that the residential sewer rate for Lashbrooke will be thirty-five dollars and eleven cents (\$35.11).

In its *Petition*, IRM contends that the City of Alcoa and Blount County have declined to provide wastewater treatment service to the Lashbrooke Subdivision. In support of this contention, IRM attached letters from Beverly D. Woodruff, Blount County Mayor, and Mark Ross, Alcoa Utility representative, stating that each had declined to take over wastewater operations for the Lashbrooke Subdivision.

The January 31, 2005 Hearing

Pursuant to Tenn. Code Ann. § 65-4-203(b), public notice of the Hearing in this matter was issued by the Hearing Officer on January 21, 2005. At a regularly scheduled conference on January 31, 2005 this matter came before Chairman Pat Miller, Director Deborah Taylor Tate and Director Sara Kyle, the voting panel assigned to this Docket. Attorney Charles B. Welch, Jr. appeared on behalf of IRM. IRM President, Jeffrey Cox, appeared and offered testimony in support of the *Petition*. At the conclusion of the Hearing and upon consideration of the *Petition*, Mr. Cox's testimony, and the record as a whole in light of the legal standard set forth at Tenn. Code Ann. § 64-4-201(a), the voting panel provisionally approved the *Petition* pending receipt of

a state operating permit issued by the Tennessee Department of Environment and Conservation, at which time this Order shall no longer be provisional and shall become final.

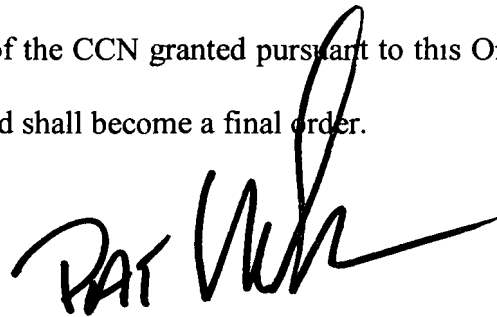
IT IS THEREFORE ORDERED THAT:

1. The *Petition of IRM Utility, Inc. to Amend Its Certificate of Convenience and Necessity* to expand its service area to include the Lashbrooke Subdivision in Blount County, Tennessee, as shown by the map attached to the *Petition*, is provisionally approved pending receipt of a state operating permit issued by the Tennessee Department of Environment and Conservation.


2. IRM Utility, Inc. shall file with the Authority a copy of its state operating permit upon receipt.

3. From the date of this Order until the filing of the state operating permit with this Authority, IRM Utility may operate, without restriction, under the authority of this CCN approval.

4. Upon filing of the state operating permit, no further action is required by IRM Utility to continue to operate under the authority of the CCN granted pursuant to this Order and this Order shall no longer be a provisional order and shall become a final order.



Pat Miller, Chairman



Deborah Taylor Tate, Director



Sara Kyle, Director